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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,712	09/12/2003	Paul E. Reilly	P1584C3-946	7648

7590 06/27/2006
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
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Alexandria, VA 22313-1404

EXAMINER

PATEL, NIKETA I

ART UNIT	PAPER NUMBER
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2181

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,712	Applicant(s) REILLY, PAUL E.	
	Examiner Niketa I. Patel	Art Unit 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Fritz Fleming
FRITZ FLEMING,
PRIMARY EXAMINER
GROUP 2100
6/23/2006
Supervisory
4/2/07

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Upon further review, the examiner has discovered that this application has claims, which are anticipated by USPN: 6,401,150 B1, therefore, the finality of that action is withdrawn and a double patenting rejection applied.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 13 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 1, 2, 15 of U.S. Patent No. 6,401,150 B1 (hereinafter USPN-150.) Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 13 of the present application is broader version of the limitations of claim 15 of the USPN-150, both of these claims are directed towards a

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printer initiating a communication with a host computer to retrieve print job data when the particular print request has reached the top of the localized print queue.

4. Claims 19 and 20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 1, 2, 15 USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 19 of the present application is broader version of the limitations of claim of the USPN-150, both of these claims are directed towards a printer initiating a communication with a host computer to retrieve print job data when the particular print request has reached the top of the localized print queue.

5. Claim 21 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 24, 29 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 21 of the present application is broader version of the limitations of claim of the USPN-150, both of these claims are directed towards a printer initiating a communication with a host computer to retrieve print job data when the particular print request has reached the top of the localized print queue.

6. Claim 14 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of these claims are directed towards the printer initiating a print connection with one of the host computers corresponding to said job information at a top of said localized print queue when said printer becomes available.

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7. Claim 15 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of these claims are directed towards the network printing system further comprising a plurality of network services protocol/ports for connecting between the host computers and the printer.

8. Claim 16 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of these claims are directed towards a network printing system wherein the network services protocol/ports comprise imaging device protocol (IDP) ports and no-IDP ports.

9. Claim 17 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of these claims are directed towards a network printing system further comprising an IDP emulator for emulating IDP print requests from non-IDP ports so that print job information for both IDP and non-IDP print requests may be queued in said localized print queue.

10. Claim 18 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of USPN-150. Although the conflicting claims are not identical, they are not patentably distinct from each other because both of these claims are directed towards a network printing system wherein print job information stored in the localized print queue comprises the print job name, creator application, estimated print time, number of pages to print, number of pages in print job, document status, image content and media.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz Fleming can be reached on (571) 272 4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NP
06/23/2006

Supervisory
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6/23/2006